



GOVERNMENT OF
NEWFOUNDLAND
AND LABRADOR

DEPARTMENT OF FINANCE
TAXATION AND FISCAL POLICY BRANCH

Bulletin No. TOB 405
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TAX INFORMATION BULLETIN
TOBACCO TAX ACT
CONTRABAND

WHAT IS CONTRABAND

Contraband tobacco is tobacco that is not purchased, possessed, acquired, marked, stamped, transported, stored or sold in accordance with the Tobacco Tax Act and includes unmarked tobacco possessed without lawful reason.

There are specific markings required under the *Tobacco Tax Regulations* for the various tobacco products intended to be sold in Newfoundland. The various markings include:

Tobacco Product	Markings
Cigarette package and pouch tobacco	CANADA DUTY PAID - DROIT ACQUITTE - NFLD.-T.N.
Carton of cigarettes	NFLD.-T.N.
Tub of fine cut tobacco	NFLD. DUTY PAID TOBACCO-CANADA-TABAC T.N. DROIT ACQUITTE
Cigars and "other" tobacco products	CANADA DUTY PAID
Imported tobacco products	A stamp as issued by the minister

Tobacco is unmarked if it does not contain the markings indicated above. Contraband is usually identifiable by its improper markings. The primary source of contraband tobacco in Newfoundland is Canadian brands which have been exported outside Canada and illegally imported into Canada. This tobacco will contain the markings "NOT FOR SALE IN CANADA", or "CANADA DUTY NOT

PAID". Tobacco is also considered unmarked if it contains markings of other provinces.

It is an offence for a dealer to sell unmarked tobacco in the province to a consumer.

PERMITS UNDER THE ACT

Under certain circumstances, tobacco may contain proper markings for Newfoundland and be contraband, or may be unmarked and may be legally possessed and sold by dealers, and in very limited circumstances, may be possessed by consumers.

The following permits have been implemented under the Act

! Permit to Bring Tobacco into the Province

- Consumers are required to obtain a permit each time tobacco is brought into the Province, other than one opened package of cigarettes or one carton of cigarettes if the consumer was visiting outside the province for more than 48 hours. Permits are available upon application from either Regional Office of the Department of Finance (listed below), or in the case of Labrador West, from the Royal Newfoundland Constabulary.

No permit will be issued to a consumer until applicable taxes due under the Tobacco Tax Act are paid, or upon payment of security equal to those taxes.

- Dealers are required to obtain a permit which must be renewed annually.

A permit will not be issued to a dealer who is delinquent or is in arrears under the Tobacco Tax Act or who has had a permit or licence cancelled or suspended within the previous 5 years.

! Permit to Mark or Stamp Tobacco

- A permit to mark cigarettes will be issued to a manufacturer in Canada or the United States who produces tobacco for sale in Newfoundland.
- A permit to stamp cigarettes will be issued to dealers who import cigarettes from countries other than the United States for sale in Newfoundland.

Permits and stamps are available, upon application, from the Department of Finance.

! Permit to Purchase, Possess or Sell Unmarked Tobacco

A permit to purchase, possess or sell unmarked tobacco may be issued in the following circumstances:

- A dealer who holds a valid **Permit to Stamp Cigarettes** may purchase and possess unmarked imported cigarettes for the purpose of stamping and subsequent resale;
- To a dealer who requires tobacco for sale to ships stores when sold in accordance with the Ships Stores Regulations (Canada), or when sold in accordance with the Duty Free Stores Regulations (Canada) to persons departing from Canada; or
- to a dealer respecting tobacco offered for resale in a jurisdiction outside Newfoundland in which the applicant is designated in writing to collect the tobacco tax levied by that jurisdiction.

TRANSPORTING TOBACCO PRODUCTS

- ! Retailers transporting tobacco acquired from a dealer shall carry proof of purchase documents in the transporting vehicle.
- ! Employees of a licensed wholesaler who operate a vehicle transporting tobacco shall carry in the transporting vehicle inventory documents provided by the wholesaler showing the quantity of tobacco delivered to the vehicle.
- ! A transporter of tobacco, other than in circumstances outlined above, shall keep in his/her possession, proper documents showing the origin and destination of the tobacco, the quantity of tobacco being shipped, the name and address of the person shipping the tobacco and the consignee of the goods.
- ! Transporters, transporting tobacco on behalf of a valid permit holder, shall be provided with a notarized true copy of the permit by the permit holder and the transporter shall keep the copy in his possession at all times while the tobacco is being transported.
- ! A transporter is defined as a person who transports on his own behalf or on behalf of another person amounts of tobacco greater than 199 grams.

OFFENSES AND PENALTIES

- ! A person who purchases, possesses, acquires, transports, stores or sells contraband is guilty of an offense and is liable on summary conviction to:

- (a) for the 1st offence, a fine of \$200 - \$10,000
for the 2nd offence, a fine of \$500 - \$50,000
for the 3rd or subsequent offence, a fine of \$1,000 - \$100,000,
For either of the above offences there is the possibility of imprisonment up to two years or both a fine and imprisonment.
- (b) 5 times the tax payable; and
- (c) In addition to the fines imposed above, a court shall order a person who defaults in payment of those fines be imprisoned for a period of 1 to 6 months.

! Motor vehicles, aircraft, ships or boats used to transport or store contraband will be seized and forfeited.

! A person holding licenses under the Gasoline Tax and Liquor Control Acts who is found guilty of an offense under the Tobacco Tax Act shall have such licences cancelled.

The Taxation and Fiscal Policy Branch maintains 2 offices in the locations listed below. Should you require information regarding any of the tax laws administered by the Taxation and Fiscal Policy Branch, please contact the nearest branch office:

Tax Administration Division
Confederation Building
P.O. Box 8720
St. John's, Nfld.
A1B 4K1
Phone: (709) 729-6297
Fax: (709) 729-2856

Tax Administration Division
Regional Taxation Office
Sir Richard Squires Bldg
Corner Brook, Nfld.
A2H 6J8
Phone: (709) 637-2470
Fax: (709) 637-2618

Disclaimer: These bulletins are prepared as guidelines and interpretations of the statutes. Where a conflict between the bulletins and statutes arise, the statutes will take precedence.